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October 9, 2002

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

**Re: Public Notice FCC 02-248/WT Docket No. 02-276
Auction Event No. 35**

Dear FCC:

I am writing to urge the FCC to allow the winning bidders in FCC Auction No. 35 to opt out and receive a full refund of their deposits with the FCC for the licenses subject to the NextWave litigation and Urban Comm proceedings. Not only would this action allow Verizon and other re-auction winners to remove a potential \$16 billion liability in the form of bidding commitments, but it would allow all parties affected by this situation to move forward with necessary business decisions. These affected parties include equipment manufacturers, engineering firms and tower companies.

As President and Founder of Mesa Communications Group LLC, I can assure you that this situation regarding the re-auction is affecting many companies other than just the re-auction winners, including my own. Mesa is a leading middle market tower owner and operator with approximately 200 towers in its portfolio. We employ over 25 people in our Falls Church, VA office and in regional offices around the country. Mesa has built a number of towers for Verizon in the State of Maine for the build-out of Verizon's PCS system, which was to utilize the licenses acquired by Verizon in the re-auction. Verizon entered into tower lease agreements, commenced the leases and began paying lease payments based on the widely held belief at the time that the NextWave license issue would be resolved in a timely manner. Unfortunately, as a result of the failure of Congress to approve the NextWave settlement last December, as well as the open-ended nature of the ongoing litigation surrounding the licenses, Verizon was compelled to exercise a "force majeure" clause in their tower lease agreements with Mesa to cancel the agreements because Verizon was prohibited from operating its system on Mesa's towers. The cancellation of these Verizon lease agreements has caused undue financial harm to Mesa.

Though I believe Michael Powell has done a wonderful job as Chairman of the FCC, and have found the FCC to be one of the best run agencies in the federal government, I do find fault with the FCC's current position on the re-auction of these FCC licenses. The

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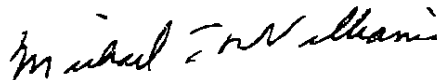
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prices that were bid for these FCC licenses were derived during a much different time in the telecommunications industry. Given the turmoil in ~~our~~ industry **today**, the value of those FCC licenses is markedly lower. Even if the industry ~~had~~ not **experienced** a severe ~~financial~~ crisis since the re-auction had occurred, the value ~~of~~ the licenses would **be** reduced due to the time-to-market effect. It is well documented that **a wireless** carrier that enters a market substantially after other competitors permanently **loses** valuable market share.

The end result of the government's actions to date has been to (i) undermine confidence in the auction process, (ii) tie up scarce capital in the wireless industry (~~both in the form~~ of deposits **and** contingent auction liabilities) during a period of economic downturn, and (iii) prevent the deployment of wireless technology to ~~unserved~~ or underserved **areas** of the country.

I again urge the FCC to make the decision which is the best management decision, **makes** the most sense, **and** is the right thing to do – allow the re-auction winners to void the re-auction results immediately.

Sincerely,



Michael T. Williams
President

Cc: **VIA FACSIMILE & REGULAR MAIL.**

Chairman Michael K. Powell
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The Honorable **George** Allen
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The Honorable John Warner
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The Honorable Cliff Stearns
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The Honorable James P. **Moran**
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